

limits on potential to emit to avoid major source classification under section 112. The EPA believes this purpose is consistent with the overall intent of section 112.

Rule 2530 is modeled on the California model prohibitory rule developed by the California Association of Air Pollution Control Officers, CARB, and EPA. In its agreement on the model rule, EPA expressed certain understandings and caveats. See letter, Lydia Wegman, Deputy Director, Office of Air Quality Planning and Standards, U.S. EPA to Peter D. Venturini, Chief, Stationary Source Division, CARB, January 11, 1995. A copy of this letter is in the docket for this rulemaking. These understandings and caveats are incorporated into EPA's proposed approval of Rule 2530.

### III. Administrative Requirements

#### A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Comments should be submitted by December 1, 1995. Copies of the District's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office.

#### B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

#### C. Regulatory Flexibility Act

The EPA's actions under Section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

#### D. Unfunded Mandates Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small

governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action promulgated today does not include a federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

##### 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental protection Hazardous substances, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: October 19, 1995.

John Wise,

Acting Regional Administrator.

[FR Doc. 95-27144 Filed 10-31-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 86

[AMS-FRL-5302-3]

RIN 2060-AC65

#### Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Regulations Requiring On-Board Diagnostic (OBD) Systems—Acceptance of Revised California OBD II Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice of proposed rulemaking proposes to revise requirements associated with on-board diagnostic (OBD) systems, as specified by 40 CFR 86.094-17. The federal OBD rulemaking, published February 19, 1993, allowed for compliance with California OBD II requirements as satisfying federal OBD requirements through the 1998 model year. The

California Air Resources Board has recently revised their OBD II requirements. The federal OBD regulations require appropriate revisions such that compliance with the recently revised OBD II requirements will satisfy federal OBD.

**DATES:** Written comments on this document will be accepted until January 16, 1996. EPA will conduct a public hearing on this Notice of Proposed Rulemaking on December 13, 1995, if a public hearing is requested by November 16, 1995. If a hearing is requested, it will convene at 9 a.m. and will adjourn at such time as necessary to complete the testimony. Further information on the public hearing can be found in Supplementary Information, Section III, Public Participation.

**ADDRESSES:** Written comments should be submitted (in duplicate if possible) to: The Air Docket, room M-1500 (Mail Code 6102), Waterside Mall, Attention: Docket No. A-90-35, 401 M Street, SW., Washington, DC 20460.

The public hearing, if requested, will be held at the Holiday Inn North Campus, 3600 Plymouth Road, Ann Arbor, MI. Parties wishing to testify at the hearing should provide written notice to the contact person (see **FOR FURTHER INFORMATION CONTACT**).

Materials relevant to this rulemaking are contained in Docket No. A-90-35, and are available for public inspection and photocopying between 8:00 a.m. and 5:30 p.m. Monday through Friday. The telephone number is (202) 260-7548 and the facsimile number is (202) 260-4400. A reasonable fee may be charged by EPA for copying docket material.

**FOR FURTHER INFORMATION CONTACT:** Todd Sherwood, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, telephone (313) 668-4405.

#### SUPPLEMENTARY INFORMATION:

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- I. Introduction and Background
- II. Requirements of this Proposal
- III. Public Participation
- IV. Discussion of Issues
- V. Cost Effectiveness
- VI. Administrative Requirements

##### I. Introduction and Background

On February 19, 1993, the EPA promulgated a final rulemaking (58 FR 9468, February 19, 1993) requiring manufacturers of light-duty vehicles (LDV) and light-duty trucks (LDT) to install on-board emission control diagnostics (OBD) systems on such vehicles beginning in model year 1994. The regulations promulgated in that final rulemaking require that

manufacturers install OBD systems which monitor emission control components for any malfunction or deterioration causing exceedances of certain emission thresholds, and alert the vehicle operator to the need for repair. That rulemaking also requires that, when a malfunction occurs, diagnostic information must be stored in the vehicle's computer to assist the mechanic in diagnosis and repair.

Additionally, that rulemaking makes an allowance for manufacturers to satisfy the Federal OBD requirements through the 1998 model year by installing systems satisfying the California OBD II requirements pertaining to those model years. This allowance means that manufacturers could concentrate on designing one system for OBD compliance and installing that system nationwide during allowable model years. As EPA regulations cannot be revised except through EPA rulemaking, the OBD II requirements allowed under this provision were, and have continued to be, those existing on the date of publication of the federal OBD final rulemaking. This means that subsequent changes made to the OBD II requirements by the California Air Resources Board (ARB) may be inconsistent and potentially unacceptable for federal OBD compliance. The provisions of this proposed rulemaking will allow manufacturers to comply with federal OBD requirements by optionally complying with more recent OBD II regulations, specifically those contained in ARB Mail Out #95-03, made publicly available January 19, 1995.

On March 23, 1995, EPA published a direct final rule revising specific federal OBD provisions, including the provision of today's proposal. EPA believed that the March 23 direct final rule would not be controversial. In that direct final rule, EPA stated that, "If notice is received that any person or persons wish to submit adverse comments regarding some, but not all of the actions taken in this rulemaking, then EPA shall withdraw this final action and publish a proposal only with regard to the actions for which notice has been received." EPA stated that it would make such a withdrawal if adverse comment was received by April 24, 1995.

EPA received adverse comment from the Motor and Equipment Manufacturers Association (MEMA). This adverse comment was placed in the public docket for viewing. The comments submitted by MEMA were adverse with regard to the revision of 40 CFR 86.094-17(j) that would allow

manufacturers the option of complying with the recently revised California OBD II requirements (California Air Resources Board Mail-Out #95-03). (MEMA had initially objected to other specific provisions of the direct final rule, but MEMA withdrew these objections in a letter signed May 18, 1995.) Therefore, EPA subsequently removed the provision of the March 23 direct final rule that pertained to optional compliance with the revised OBD II requirements of ARB Mail-Out #95-03 (Final rule published on July 25, 1995 at 60 FR 37945). The language of the prior final rule published on February 19, 1993 (58 FR 9468) allowing compliance with California OBD II requirements is reinstated in § 86.094-17(j).

## II. Requirements of This Proposal

This proposed rulemaking allows manufacturers to comply with federal OBD requirements by optionally complying with the revised and recently adopted California OBD II regulations. The allowance for optional compliance with California OBD II has already been established in the federal OBD program and was incorporated into the federal OBD final rulemaking in February, 1993. However, since that time, the ARB has made several revisions to the OBD II regulations.

Because the Agency cannot simply accept the revised OBD II without undergoing the federal regulatory process, any optional compliance with California OBD II under the current federal regulations must be done against the OBD II regulations as they existed in February, 1993 (ARB Mail Out #92-56, November, 1992). However, the ARB has determined that several manufacturers would have difficulty complying with the OBD II regulations as they existed in February, 1993. The most notable requirements that currently pose difficulties are those for engine misfire detection under all positive torque engine speeds and conditions and full OBD II implementation on alternative fueled vehicles. Additionally, most manufacturers have indicated difficulty meeting other aspects of the OBD II regulations due to, for example, the complexity of the computer software requirements, and unpredictable driver actions such as resting a foot on the gas pedal while stopped at a traffic light. It is these additional difficulties that have prompted ARB to provide a "deficiency" allowance in their revised OBD II regulations whereby manufacturers can certify as OBD II compliant despite some reasonably

acceptable and unplanned deficiency in the OBD system.

As a result of the ARB revisions to OBD II, and to remain consistent with the original intent of providing for optional compliance with OBD II for federal OBD purposes, and because EPA has determined that OBD systems complying with the revised OBD II requirements fully satisfy the intent of the 1990 Clean Air Act Amendments and federal OBD regulations, this proposed rulemaking will provide the same option but will require that manufacturers choosing this option comply with the more recent OBD II regulations contained in ARB Mail Out #95-03.

This means that any federal vehicles complying with federal OBD by optionally complying with California OBD II are allowed the same deficiencies as allowed under the OBD II provisions. This is consistent with revisions deemed necessary by EPA and subsequently made to federal OBD requirements through a direct final rulemaking published in March of this year (60 FR 15242, March 23, 1995). Note, however, that a manufacturer requesting certification of a deficient OBD II system must receive EPA acceptance of any deficiency independently of an acceptance made by ARB. The Agency will use the same criteria specified by the ARB in the OBD II regulation,<sup>1</sup> with the exception of providing deficiency allowances for lack of catalyst monitors or oxygen sensor monitors as the Clean Air Act specifically requires these monitors no later than the 1996 model year. The Agency will make every effort to determine the acceptability of OBD II deficiency requests in concert with ARB staff to avoid the potential for conflicting determinations. However, the extent to which the agencies can make concurrent and coordinated findings will rely heavily on the manufacturer, who will be expected to provide any necessary information to both agencies in parallel rather than pursuing deficiency determinations on a separate basis.

## III. Public Participation

### A. Comments and the Public Docket

The Agency welcomes comments on all aspects of this proposed rulemaking. All comments, with the exception of

<sup>1</sup> Those criteria being the extent to which the requirements are satisfied overall on the vehicle applications in question, the extent to which the resultant diagnostic system design will be more effective than earlier OBD systems, and a demonstrated good-faith effort to meet the requirements in full by evaluating and considering the best available monitoring technology.

proprietary information, should be directed to the EPA Air Docket Section, Docket No. A-90-35 (see **ADDRESSES**). Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by:

- Labeling proprietary information "Confidential Business Information" and
- Sending proprietary information directly to the contact person listed (see **FOR FURTHER INFORMATION CONTACT**) and not to the public docket.

This will help insure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission labeled as confidential business information as part of the basis for the final rule, then a nonconfidential version of the document, which summarizes the key data or information, should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, the submission may be made available to the public without notifying the commenters.

#### *B. Public Hearing*

EPA will conduct a public hearing on this notice of proposed rulemaking on December 13, 1995, if a public hearing is requested by November 16, 1995. If a hearing is requested, it will convene at 9 a.m. and will adjourn at such time as necessary to complete the testimony. If requested the public hearing will be held at the Holiday Inn North Campus, 3600 Plymouth Road, Ann Arbor, MI.

Should a public hearing be requested and subsequently held, anyone wishing to present testimony about this proposal at that public hearing should, if possible, notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling those who have not notified the contact earlier. This testimony will be scheduled on a first-come, first-served basis, and will follow the testimony that is arranged in advance.

The Agency recommends that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to

the audience. In addition, EPA would find it helpful to receive an advance copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This is to give EPA staff adequate time to review such material before the hearing. Such advance copies should be submitted to the contact person listed.

The official records of the hearing will be kept open for 30 days following the hearing to allow submissions of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket, Docket No. A-90-35 (see **ADDRESSES**).

The hearing will be conducted informally, and technical rules of evidence will not apply. Written transcripts of the hearing will be made and a copy thereof placed in the docket. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

#### *IV. Discussion of Issues*

As noted above, EPA published a direct final rulemaking on March 23, 1995, that contained a provision for optional compliance with revised California OBD II regulations as satisfying federal OBD through the 1998 model year. That provision was to become effective on May 22, 1995, unless EPA received notice of adverse comments by April 24, 1995. EPA received adverse comment from one source, the Motor and Equipment Manufacturers Association (MEMA), dated April 21, 1995. MEMA had commented adversely on all but one provision contained in the direct final rulemaking (sections II.A. through II.G.). The only provision not commented on by MEMA was that provision deleting the federal OBD anti-tampering requirements (40 CFR 86.094-18). In subsequent discussions, MEMA agreed to withdraw all of their adverse comments, with the exception of that comment pertaining to federal acceptance of compliant revised California OBD II systems as satisfying federal OBD requirements. As a result, EPA has removed the provision allowing revised OBD II systems for federal OBD compliance.

The comments received from MEMA regarding federal acceptance of compliant revised California OBD II systems as satisfying federal OBD requirements can be categorized into three areas: (1) Delegation of federal regulatory authority to the State of California; (2) Lack of an OBD II waiver under Section 209 of the Clean Air Act (CAA); and, (3) OBD II violates Section

202(m)(4) and 202(m)(5) of the CAA. These will be addressed in order.

In their comments, MEMA states an objection to, " \* \* \* EPA's use of the rule to unlawfully delegate federal rulemaking authority to the California Air Resources Board ('CARB')." The basis of this comment is unclear. The Agency has determined that the California OBD II regulation adequately encompass all requirements of the CAA section 202(m)(1), 202(m)(2), and 202(m)(4), and the regulatory intent of EPA's federal OBD final rulemaking of February, 1993. In light of that determination, the Agency has determined that it is beneficial to the automobile industry, and it presents no loss of federal OBD program benefits, to allow for optional compliance with California OBD II regulations as satisfying federal OBD for the initial years of OBD implementation. This issue was considered at length during development of the federal OBD final rulemaking and was included in the CFR through that rulemaking. In the March, 1995, direct final rulemaking, EPA simply revised that regulatory provision to include recent revisions made to the OBD II regulations that EPA had determined were necessary. In fact, EPA made revisions to its own regulations providing measures of relief similar to those contained in the revised OBD II regulations.

It should also be pointed out that EPA makes determinations of regulatory compliance, whether that compliance is done against California OBD II or specific federal OBD provisions, in conjunction with but independently from the California Air Resources Board. The ARB does not have the authority to implement federal regulations, nor the authority to make certification decisions. Therefore, EPA is making all implementation and certification decisions on vehicles produced for sale outside the State of California.

If ARB makes any further changes to the OBD II regulations, such changes will not automatically apply for federal certification purposes. EPA will once again evaluate such revisions to determine whether they are appropriate and will again provide for notice and comment rulemaking to assure that the public can provide its input.

Another MEMA comment stated that EPA had not yet granted a CAA Section 209 waiver to California for their OBD II program. MEMA argues that the lack of such a waiver precludes EPA from accepting OBD II systems for federal OBD compliance. However, the Agency's regulatory provisions state that an OBD system meeting the requirements of the OBD II regulations

effectively complies with federal OBD regulations. California's OBD II program is in this case similar to any other set of procedures that EPA incorporates by reference, for example, protocols developed by the Society of Automotive Engineers (SAE). These protocols are generally unenforceable by themselves, but are enforceable by EPA once they are promulgated by rulemaking. The existence of a waiver to California for their OBD II program is immaterial to this optional provision under federal OBD. Even if the State of California were to discontinue their OBD II program, the Agency could continue to allow optional compliance against the ARB OBD II regulations.

MEMA also argues that OBD II, and federal OBD by allowing compliance against the OBD II provisions, violates Sections 202(m)(4) and 202(m)(5) of the CAA. Section 202(m)(4) requires standardization of diagnostic connectors, OBD system access, and OBD data output, while 202(m)(5) requires that service information be made available to interested parties. This comment seems to be directed to the anti-tampering provisions of the OBD II requirements. Even if EPA believed that such requirements violated section 202(m)(4) and 202(m)(5), such requirements have expressly been excluded from EPA's incorporation of OBD II. Thus, such arguments are inapplicable. Moreover, all manufacturers will be required to comply with EPA's Service Information Availability regulations (final rule published on August 9, 1995 at 60 FR 40474).

#### V. Cost Effectiveness

This proposed rulemaking alters an existing provision by allowing optional compliance with the most recent California OBD II requirements, as opposed to the November, 1992, "Original" OBD II requirements, for the purposes of federal OBD compliance. Because this proposed rulemaking alters an existing provision, there are no costs associated with this specific proposed action. The costs and emission reductions associated with the federal OBD program were developed for the February, 19, 1993, final rulemaking. The proposed change being made today does not affect the costs and emission reductions published as part of that rulemaking.

#### VI. Administrative Requirements

##### A. Administrative Designation

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory

action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

##### B. Reporting and Recordkeeping Requirements

This proposed rulemaking does not change the information collection requirements submitted to and approved by OMB in association with the OBD final rulemaking (58 FR 9468, February 19, 1993; and, 59 FR 38372, July 28, 1994).

##### C. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires Federal agencies to identify potentially adverse impacts of federal regulations upon small entities. This proposed rulemaking will provide regulatory relief to both large and small volume automobile manufacturers by maintaining consistency with California OBD II requirements. This proposed rulemaking will have no impact on businesses which manufacture, rebuild, distribute, or sell automotive parts, nor those involved in automotive service and repair.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this regulation does not have a significant impact on a substantial number of small entities.

##### D. Unfunded Mandates Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that

may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, or \$100 million or more. Under Section 205, EPA must select the most cost effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

##### E. Electronic Copies of Rulemaking Documents

Electronic copies of the preamble and the regulatory text of this proposed rulemaking are available on the Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTN BBS). Users are able to access and download TTN BBS files on their first call. After logging onto TTN BBS, to navigate through the BBS to the files of interest, the user must enter the appropriate command at each of a series of menus. The steps required to access information on this rulemaking are listed below. The service is free, except for the cost of the phone call.

TTN BBS: 919-541-5742 (1,200-14,400 bps, no parity, eight data bits, one stop bit). Voice help: 919-541-5384 Internet address: TELNET ttnbbs.rtpnc.epa.gov Off-line: Mondays from 8-12 Noon ET.

1. Technology Transfer Network Top Menu: <T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards) (Command: T)

2. TTN TECHNICAL INFORMATION AREAS: <M> OMS—Mobile Sources Information (Command: M)

3. OMS BBS === MAIN MENU FILE TRANSFERS: <K> Rulemaking & Reporting (Command: K)

4. RULEMAKING PACKAGES: <7> Inspection and Maintenance (Command: 7)

5. Inspection and Maintenance Rulemaking Areas: File area #2 On-Board Diagnostics (Command: 2)

At this stage, the system will list all available FTP Review files. To download a file, select a transfer protocol which will match the terminal software on your computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (i.e., ZIP'd) files, go to the TTN topmenu, System Utilities (Command: 1) for information and the necessary program to download in your computer. After getting the files you want onto your computer, you can quit TTN BBS with the <G>oodbye command.

#### List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Air pollution control, Gasoline, Incorporation by reference, Motor vehicles, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: October 20, 1995.  
Carol M. Browner,  
*Administrator.*

For the reasons set out in the preamble, it is proposed to amend part 86 of title 40 of the Code of Federal Regulations as follows:

#### **PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES**

1. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 205, 206, 207, 208, 215, 216, 217, and 301(a), Clean Air Act, as amended (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, 7552, and 7601(a)).

#### **Subpart A—[Amended]**

2. Section 86.094–17 is amended by revising paragraph (j) to read as follows:

#### **§ 86.094–17 Emission control diagnostic system for 1994 and later light-duty vehicles and light-duty trucks.**

\* \* \* \* \*

(j) Demonstration of compliance with California OBD II requirements (Title 13 California Code section 1968.1), as modified pursuant to California Mail Out #95–03 (January 19, 1995), shall satisfy the requirements of this section through the 1998 model year except that compliance with Title 13 California Code section 1968.1(d), pertaining to tampering protection, is not required to satisfy the requirements of this section.

[FR Doc. 95–27070 Filed 10–31–95; 8:45 am]

BILLING CODE 6560–50–P

#### **FEDERAL EMERGENCY MANAGEMENT AGENCY**

#### **44 CFR Part 67**

[Docket No. FEMA–7157]

#### **Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

**FOR FURTHER INFORMATION CONTACT:** Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW, Washington, DC 20472, (202) 646–2756.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to

meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

#### **National Environmental Policy Act**

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

#### **Regulatory Flexibility Act**

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

#### **Regulatory Classification**

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

#### **Executive Order 12612, Federalism**

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

#### **Executive Order 12778, Civil Justice Reform**

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

#### **List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

#### **PART 67—[AMENDED]**

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

#### **§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows: